

## EMERY EXHIBIT No. 39—CHECK BOOK.

No. of check.	Date, 191-.	In favor of—	Amount of check.
0050	Jan. 9	Wm. F. Poultney .....	\$32.50
51	9	Thos. J. Fisher (Jan.) .....	57.50
52	9	Postal Telegraph .....	19.08
53	12	Mabel White (partly) .....	10.00
54	Feb. 2	Thos. J. Fisher .....	57.50
55	.....	Fred Souter .....	20.00
56	.....	C. C. Club .....	30.25
57	.....	E. E. Hinkle .....	130.00
58	Feb. 3	Funk Wagnalls .....	11.90
59	3	Mabel White .....	30.00
60	3	W. F. Roberts .....	2.60
61	3	C. & P. Telephone Co. ....	12.70
62	.....	Byron Adams .....	3.25
63	.....	Tokalon Wine Co. ....	10.20
64	.....	Auto Tire Repair Co. ....	6.00
65	.....	Jno. Crowley .....	1.75
66	.....	Willard .....	73.00
67	.....	Terminal Taxi .....	2.10
68	.....	Blackstone .....	24.50
69	.....	Central Garage .....	136.47
70	.....	.....	.....
71	Feb. 3	A. H. Davison .....	2.25
72	3	Commercial Club .....	10.63
73	3	Crockett .....	7.50
74	3	W. B. Moses .....	408.15
75	10	Robinson .....	15.00
76	10	M. White .....	25.00
.....	24	do .....	30.00
.....	23	Self .....	20.00
80	24	C. E. Dawson .....	50.00
81	27	.....	.....
82	27	Western Union .....	8.80
83	26	Postal Telegraph .....	16.73
.....	27	J. M. Gould .....	25.40
85	Mar. 2	Mabel White .....	25.00
86	.....	Fisher & Co. (March) .....	57.50
87	.....	Soc. F. L .....	5.00
88	.....	Tokalon .....	9.10
89	.....	Willard .....	50.70
90	.....	Postal Telegraph .....	25.90

Mr. McCARTER. Letter No. 2757-2760, it apparently being a letter from Mulhall to Schwedtmann, contains the following statement:

I had a telegram from Mr. Emery on Friday night, calling me to New York on Saturday morning.

Senator REED. What is the date of that letter?

Mr. McCARTER. It is dated June 2, 1909. I continue reading:

We had a conference in relation to the Washington situation, and he stated what he wished me to do and gave me to understand plainly what he wishes done while he is absent. He has put it up to me to fix the Judiciary Committee and the Labor Committee while he is away, and I feel certain I can have this done, as we have been working upon this for some time. It looks as though we would meet with success all along the line.

What have you to say in regard to that statement?

Senator REED. Now, I do submit, if the committee please—I have made the objection several times and our friend here, I know, understands—that the proper way to examine the witness is to ask him whether or not certain things took place, and not to read somebody else's testimony or statement and ask the witness to comment upon it, or to ask him whether it is true or false.

Mr. McCARTER. I will endeavor to accommodate myself, Senator Reed, to your desire. I thought it was the quickest way to do it.

Senator REED. It is the quickest way, of course.

Senator CUMMINS. In view of the way in which our witnesses have been examined here, it seems to me that the question is a proper one. He is not referring to any testimony.

Mr. McCARTER. No, this is a letter.

Senator REED. He is asking the witness now purely for comment upon a letter. He says "What have you to say in regard to that statement"?

Senator CUMMINS. He of course means to call out his recollection in regard to that statement.

Senator REED. I should not think that it would necessarily call—I do not want to be captious about it, but I submit to the committee that where the witness is an attorney, to begin with, and he has been put upon the stand here in the attitude of a witness for what they are pleased to term "the defense," my idea of the weight which must be given to his testimony would be considerably affected by the question whether it is given in one way or whether it is given in another way.

The CHAIRMAN. I think he may answer the question.

Senator CUMMINS. Yes.

The CHAIRMAN. Go ahead, Mr. McCarter, and frame the question.

Mr. McCARTER. This letter says, "He" (meaning Emery) "has put it up to me" (Mulhall) "to fix the Judiciary Committee and the Labor Committee while he" (Emery) "is away." Had you done any such thing as that with Mr. Mulhall?

Mr. EMERY. Why, no, sir.

Senator NELSON. Speak a little louder.

Mr. EMERY. No, sir.

Mr. McCARTER. What, if anything, did you say or do with Mr. Mulhall with regard to any activity he was to display touching the formation or the attitude of the Judiciary Committee and the Labor Committee, while you were away at this time, which was June 2, 1909?

Senator REED. Will you please give me the number of that letter again? I have forgotten it.

Mr. McCARTER. It is 2757-2760.

Mr. EMERY. I do not recollect distinctly the details of the conversation which is alluded to in that letter, which doubtless took place; but I am positive that no conversation passed between us with reference to any such statement as that. I was going away to be gone some time, and at most could have asked Col. Mulhall to inform me as to any appointments made on this committee during my absence.

Senator REED. Oh, I object.

The CHAIRMAN. Just state the facts.

Mr. EMERY. That is my best recollection, Senator.

The CHAIRMAN. You say at most you could have done so and so. State the facts.

Mr. EMERY. I say I could not undertake to relate the conversation. That I do not undertake to do; but my best recollection is that, so far as relates to that subject, I requested him to keep me informed as to any change in the personnel of these committees during my absence.

Mr. McCARTER. Did you, either at that or at any other time, put it up to Mr. Mulhall to fix either the Judiciary Committee or the Committee on Labor?

Mr. EMERY. I did not.

Mr. McCARTER. I want to return for a moment to the McMichael matter, which I overlooked, and of which you reminded me.

Did you ever make a payment to Mulhall for McMichael?

Mr. EMERY. Yes.

Mr. McCARTER. When, and under what circumstances?

Mr. EMERY. While Mr. McMichael was sending to my office with the documents and bills I referred to, Col. Mulhall, who had made the arrangement, suggested that he be paid, I think it was \$15 a month.

Senator REED. \$15?

Mr. EMERY. I think so, yes, sir; and that money was paid to Col. Mulhall, and I suppose he gave it to Mr. McMichael. It may have been as much, during some months of the time he served, as \$20. It never exceeded that, that is positive; and the relation terminated entirely in 1910, when I went to Europe.

Senator NELSON. When you left for Europe, or when you came back?

Mr. EMERY. When I left, Senator.

Mr. McCARTER. There has been some testimony here with regard to the use of a secret room in the basement of this building, and your assent to that proposition. Tell us all you know about that.

Mr. EMERY. Col. Mulhall at various times suggested the establishment of what he called a bureau of information, from which congressional documents, bearing upon the various subjects, or arguments which had been had before various committees here, should be distributed. Sometime in 1911 he made the definite suggestion to me that the secretary of some congressional friend had offered to permit him to use a room here in the Capitol building, for the purpose of accumulating documents, and putting them in there and sending them out under frank to the members of the association and of other organizations which would be interested in such distribution, and I told the Colonel at the time that it was an utterly impossible proposal.

Senator NELSON. What did you say?

Mr. EMERY. That it was an utterly impossible proposal; that the use even under such circumstances of any room in the Capitol would invite a very proper criticism, and that I under no circumstances would agree to have any further discussion of it.

Later than that, when I was in New York, Mr. Bird told me that the Colonel had made the same proposition to him, and he wanted to know what I thought of such a thing, and I said to him that it was too absurd to discuss; that it would justly invite criticism, and that it must not be considered, and told him what I had said to the Colonel. I used probably stronger language than I am using now. That is the last I heard of the matter. Mr. Bird told me he intended to immediately write to the Colonel and condemn the matter, just as he had already condemned it in conversation with him.

Senator REED. Mr. Chairman, may I interrupt? I want to make an inquiry of the committee. We have heretofore agreed on adjourning at 12 o'clock. We changed the time of adjournment this morning to 11 o'clock because of the Senate convening at that hour, and I want to know if it is proper for us to go on while the Senate is in session, or whether we should stop now. I know Senator Cummins particularly wants to be at the tariff debate, and there is very good reason why he should have that desire. I was going to make this suggestion to the committee, whether it is not possible for us to either take up these

matters at night sessions and get through with them, or to try and have the members arrange very soon for a day when we can start in in the morning and run through, until we get through with Mr. Emery's testimony, because the matter is dragging—of itself; I am not criticizing anybody.

Mr. McCARTER. No.

Senator REED. And also because I myself am very anxious, and I think all the members are anxious, to hear the tariff discussions. They are getting pretty warm and interesting, and are on important matters. I wanted to see just what the committee thought about it, and therefore I thought I would stop here for that suggestion.

Senator CUMMINS. Mr. Chairman, I must be in the Senate this morning, but I do not think I will be engaged there more than a few minutes, for I do not now intend to do what I had expected to do at this time. However, I feel that I would like to be present at least most of the time during the tariff debate. I am perfectly willing that the examination of Mr. Emery shall go on in my absence. I can read the record.

Senator REED. Mr. McCarter, have you an idea about how long it will take you to conclude?

Mr. McCARTER. I should think in half an hour I should be through with Mr. Emery on what I call our direct examination, unless there is some other interruption.

Senator REED. Yes.

Mr. McCARTER. I have gotten down now to a few specific questions that I wanted to ask him concerning the business. I do not think it will take more than half or three-quarters of an hour, Senator Reed.

Senator REED. Suppose we go on until 12 o'clock to-day?

Senator NELSON. And let us not interrupt any more than is necessary.

The CHAIRMAN. What length of time was covered by your deposits in the bank as shown by the slips exhibited here?

Senator NELSON. From what time to what time?

Mr. EMERY. All of 1909, 1910 and 1911.

Senator NELSON. Three years?

Mr. EMERY. Yes, sir.

Senator NELSON. None before that on the slips?

Mr. EMERY. None before that on the slips.

Senator NELSON. And none after that?

Mr. EMERY. No, sir. I can give you all my checks for 1912.

Mr. McCARTER. You see Mr. Mulhall left the employ of the association, practically, in October, 1911, although theoretically his resignation took effect January 1, 1912.

Mr. Emery, I refer you to page 2744 of the printed record of these proceedings, where I find that Mr. Mulhall testified as follows—

Senator REED. Can you not avoid that kind of examination?

The CHAIRMAN. You might refresh his memory and then ask the question.

Senator REED. That might lead us a long ways off. I think you can see where that might possibly take us.

Mr. McCARTER. I am frank to say, Senator Reed, that over in the ancient and honorable State of New Jersey that is the universal way of contradicting a witness.

The CHAIRMAN. Well, you might read it into the record and then ask your question.

Mr. McCARTER. On page 2744 of the printed record in this case appears the following:

Mr. MULHALL. Mr. Cole had served two terms in Congress. Before he was nominated the second time he pledged himself that he would not run a third time. There had been certain influences brought to bear on him here in Washington to stand for another nomination. That was unusual in that district. They asked me to go out there and try to have him renominated.

Senator REED. Was he renominated?

Mr. MULHALL. Yes.

Senator NELSON. That is an Ohio district?

Mr. MULHALL. Yes.

Senator REED. Who asked you to make that trip?

Mr. MULHALL. Mr. Sherman.

Senator REED. Was Mr. Cole one of the men that was regarded as friendly to the interests of the Manufacturers' Association?

Mr. MULHALL. Extremely so—subservient; so subservient that Mr. Emery sent for him on one occasion. He told me that Mr. Cole had not been acting good toward the Ohio delegation or with the Ohio delegation—they were opposing Speaker Cannon and the Cannon rules—and I went to the Capitol and brought Mr. Cole, and I brought him to Mr. Emery's office, and Mr. Emery gave him a scolding there on the carpet in his own office in this city.

I ask you if any such interview between yourself and Mr. Cole ever took place.

Mr. EMERY. It did not.

Mr. McCARTER. Was Mr. Cole, to your knowledge, ever in your office?

Mr. EMERY. No, sir; he was not. I do not know Mr. Cole.

Mr. McCARTER. Did you ever have any such interview with him, anywhere?

Mr. EMERY. No; I never met him. I do not know him.

Mr. McCARTER. On page 2782 appears an extract from a letter the number of which does not appear on that page. I quote from that extract.

Senator NELSON. Whose letter is it?

Mr. McCARTER. The letter is from Mr. Mulhall to Mr. Schwedtmann, I think, sir.

Senator REED. On the bottom of the preceding page you will see the following:

Senator REED. I hand you 1594-1596:

That fixes the number of the letter.

Mr. McCARTER. Yes, sir. From this letter I read the following extract:

I wish to call your attention to something I failed to get in my report that I sent you from this office on last Tuesday. That is, in relation to Mr. Emery's and my interview with Judge Jenkins, chairman of the Judiciary Committee. Judge Jenkins told Mr. Emery and I if he could be reelected to Congress again that he could so arrange it that he could get a man to take Littlefield's place who would be just as effective for us in the next Congress as Littlefield has been. This he agreed to do provided we would aid him in every way we possibly could.

Do you recall any such interview between Mr. Emery and Mr. Mulhall and Judge Jenkins as is there referred to?

Mr. EMERY. I do not.

Mr. McCARTER. Did it take place?

Mr. EMERY. No, sir. The interview may have taken place, but no such conversation occurred.

**Mr. McCARTER.** At page 2784 I read an extract from letter 1610-1612, received by Mr. Mulhall from Mr. Schwedtmann. The extract to which I desire to call the witness's attention reads as follows:

Mr. Van Cleave has had a number of conferences with Mr. Bird, and he has spoken to him about your work, and it is understood that your relationship with the St. Louis office is exactly the same as it has been in the past, namely, that you are under direct instructions from the St. Louis office. This, however, does not lessen the necessity of working in absolute harmony with the New York office and in the closest possible touch with Mr. Bird, the business manager. While working under direct instructions from St. Louis, your own good sense tells you that when in the New York office it is necessary to comply with the rules and regulations under which that office is working.

Directing your attention to that paragraph, I ask you whether or not it is true that during the period when you and Mr. Mulhall were collaborating in Washington, as you have described, he was under directions of the St. Louis office, and later under directions of the New York office, and not under your immediate control?

**Mr. EMERY.** May I ask the date of that letter? I did not catch it.

**Mr. McCARTER.** It does not give the date here. It is letter 1610-1612. I will ask the clerk to give us the date.

**Mr. EMERY.** Well, I can say generally, Mr. McCarter—

**THE CLERK OF THE COMMITTEE.** The letter is dated June 2, 1908.

**Mr. McCARTER.** You may go on, Mr. Emery.

**Mr. EMERY.** I can say generally with respect to the control of Mr. Mulhall's actions from the time I came to Washington in 1908, that while he was here in Washington he gave me any assistance he could on the lines that I have described; but he was very frequently called away, or went away, and I understood he did so under directions from St. Louis; and when he returned he was subject to such instructions or orders as he had from there. He gave me generally the same assistance as I have described, until in 1910 he was specifically placed under Mr. Bird's directions and orders, and obeyed such orders as he received from there. When he came to Washington and came here to assist me in any way, he came here pursuant to a request by me to Mr. Bird, or an order from Mr. Bird.

**Mr. McCARTER.** On page 2791 of the record appears a letter, No. 1647, which appears to be written to James A. Emery by Mr. Mulhall. I call attention to the third paragraph.

**Mr. EMERY.** Will you give me the date of that letter?

**Mr. McCARTER.** I have not the date here. I will ask the clerk to give the date.

**THE CLERK OF THE COMMITTEE.** The letter is dated June 23, 1908.

**Mr. McCARTER.** The third paragraph of that letter, as quoted in the record, reads:

From the information I could get from those gentlemen it appears to me that we have a good fighting chance to win this district, providing that you can do as you told Judge Jenkins you would do, to aid him by raising some funds in the East, so he could put the necessary workers going here as soon as possible to do so. The judge remembered the promise you made him in Washington and is very anxious to hear from you at the earliest moment.

With reference to that, do you remember the Jenkins campaign of 1908?

**Mr. EMERY.** Yes, sir.

Mr. McCARTER. Do you remember an interview between you and Judge Jenkins, in Washington or elsewhere, with reference to that campaign?

Mr. EMERY. I had a talk with Judge Jenkins in the winter of 1908, the only conversation I remember having had with him. I did not know Judge Jenkins except slightly. I had appeared before his committee and discussed matters there, but I do not recall having but one conversation with him personally.

Mr. McCARTER. And that was later than this letter, apparently.

Mr. EMERY. I mean the winter of 1907-8, the spring of 1908, I had a conversation with him. I can not say certainly whether Mr. Mulhall was present or not, but I remember meeting Judge Jenkins in his committee room in the course of an inquiry I was making as to some hearings, and I sat down and talked to him for maybe 10 minutes. In that conversation he discussed his coming campaign. He spoke of the fact that he was going to have a very stiff fight, that the labor organizations were criticizing him very sharply for the position he had taken on injunction legislation, and expressed very strongly, as I remember, his determination to never change his views on the subject, because they had been his views all his life as a lawyer. I recall saying to him very distinctly that I thought every business man in the country was a debtor to him for the position which he had so boldly taken, and the views which he had so freely expressed. That was about the extent of the conversation. There was nothing more than that. I think I was introduced to Mr. Jenkins that time by his brother—a younger man, a Mr. Jenkins, who was either secretary to Judge Jenkins, or connected with the committee in some way, I do not remember precisely what. That is the only conversation I ever had with Judge Jenkins, other than the discussion that might have occurred with him in the course of an argument. That is the only conversation I ever had with him prior to the campaign of 1908 in his district.

Mr. McCARTER. Did you at that time or any other time agree with him, or say to him, that you would raise some funds in the East?

Mr. EMERY. No, sir; I did not.

Senator REED. You got this letter from Mr. Mulhall, did you not?

Mr. EMERY. I do not know. If you will let me see that letter, perhaps I can tell. I am not sure. [After examining letter:] Yes, sir; undoubtedly I received that letter.

Senator REED. Did you ever write a letter repudiating any part of it?

Mr. EMERY. No; I do not think I wrote the Colonel on the subject at all.

Senator REED. On the contrary, you and your association continued to make efforts for Judge Jenkins in that campaign, as is shown by numerous letters?

Mr. EMERY. I deny that I made any efforts.

Senator REED. I am not talking about you personally; but did not your association make efforts in his behalf?

Mr. EMERY. I think they did. I have noticed letters to that effect.

Senator REED. And not only Mr. Mulhall wrote you, but other officers of the association wrote you, about this whole matter?

Mr. EMERY. I think so.

Senator REED. And you never repudiated it, or never wrote back and said he was writing a lot of stuff that there was no truth in?

Mr. EMERY. Mr. Mulhall called on me shortly after that—

Senator REED. You did not repudiate it in person?

Mr. EMERY. I did.

Senator REED. You remember that?

Mr. EMERY. Yes.

Senator REED. But you did not write him about it?

Mr. EMERY. He called on me shortly after that, I do not remember when.

Senator REED. Called on you for money, did he not?

Mr. EMERY. Yes.

Senator REED. And the association went right on raising money for him?

Mr. EMERY. I was not connected, except remotely, with the National Association of Manufacturers. I was secretary of the Citizens' Industrial Association. He called on me in New York on the subject of raising money, I remember very distinctly. He wanted Mr. Post, who was the president of the Citizens' Industrial Association, and was reputed to be and was in fact a wealthy man, to make a contribution—

Senator REED. You know there has been produced correspondence between Mr. Mulhall and Mr. Post showing that Mr. Post was trying to raise money?

Mr. EMERY. No, I do not think there has been any such correspondence.

Senator REED. There is correspondence in here, is there not, which shows that Mr. Post was trying to help raise that money?

Mr. EMERY. No. I think what you have in mind is correspondence with me in which Mr. Mulhall urged me to get Mr. Post to make some contribution.

Senator REED. Is there not such correspondence?

Mr. EMERY. I think that is in regard to another matter. I think it is doubtless the Watson campaign you have in mind.

Senator REED. Very well. The letters will show.

Mr. EMERY. The letters will show; but that is my recollection. I will only say in connection with it that I told the Colonel it was impossible to do anything of the kind; that Mr. Post would not contribute, and that I could not help him.

Senator REED. That you could not help him, although in this conversation with Judge Jenkins, when he told you he was going to have a hard fight, that the labor unions were going to fight him, you told him that all the manufacturers of the country were indebted to him; and did you say anything then about helping him?

Mr. EMERY. Nothing beyond what I have told you, that I thought they were indebted to him and I felt sure that if anyone passed the hat in that matter, in view of the position of Judge Jenkins the manufacturers all over the country would contribute. But they did not.

Senator REED. If you said that—

Mr. EMERY. I did not say that to Judge Jenkins. I do not want to be misunderstood.

Senator REED. Did you not say a little while ago that you did have a conversation with Judge Jenkins?

Mr. EMERY. Yes sir.



Senator REED. And that in that conversation he told you he was going to be fought by the labor organizations on account of his injunction attitude?

Mr. EMERY. Yes sir.

Senator REED. Did you not say that in that conversation you said to him in substance—I can not quote the exact language—that you thought all the manufacturers of the country were indebted to him?

Mr. EMERY. Yes sir.

Senator REED. Did you not in that conversation also say to him that you would be glad to assist him in any way you could, or words to that effect?

Mr. EMERY. I think I did.

Senator REED. Then do you think that it was at all inconsistent for Mr. Mulhall to write this. I will have to read the text to get the sentence out:

From the information I could get from those gentlemen it appears to me that we have got a good fighting chance to win in this district, providing that you can do as you told Judge Jenkins you would do, to aid him by raising some funds in the East, so he could put the necessary workers going here as soon as possible to do so. The judge remembered the promise you made him in Washington and is very anxious to hear from you at the earliest moment.

Do you not think that language is entirely consistent with what you now say took place?

Mr. EMERY. It might be the interpretation of an opinion on my part turned into a promise. I made no promise; I could not do it; and there was nothing in the conversation on the part of Judge Jenkins that indicated a hope of financial assistance.

Senator REED. When you said to him that the manufacturers were indebted to him, you thought they would help him?

Mr. EMERY. Yes.

Senator REED. The only way the manufacturers all over the country could help him would be, not by voting for him, because they did not live in his district, but by rendering financial help? The only other way to help him was by cold, hard cash; that is about all that is left, is it not?

Mr. EMERY. Yes; I realize your interpretation of it.

Senator REED. Particularly in view of the fact that there were no manufacturers in his district to speak of.

Mr. EMERY. But there were many manufacturers in Wisconsin.

Senator REED. But in Judge Jenkins's district?

Mr. EMERY. I heard that statement here. I was not familiar with his district.

Mr. McCARTER. I now call your attention to page 2940 of the record, where there is a quotation from a letter from Mulhall to Schwedtmann.

Senator REED. What is the number of the letter?

Mr. McCARTER. 2171-2188. In this letter Mulhall says:

I had a long interview with Mr. Emery on Monday morning and fully went over the situation with him and went to Paterson on Monday night and had a second interview with him on Tuesday noon. Mr. Emery has changed his mind about that district. I gave him a large list of manufacturers in that district, and he started to working among them for the couple of days that I will be West and will do all he can to help me out.

Mr. EMERY. What is the date of that?

Mr. McCARTER. October 28, 1908. Did you have such an interview with Mr. Mulhall, and did you in fact start the work in the Hughes district, in Paterson, in that campaign?

Mr. EMERY. I can not say as to having had an interview with him at that date, but the arrangement there discussed certainly was not made, nor did I do any work of the kind described. I never went into anybody's district.

Senator REED. You mean you never literally and personally went into it. Do you mean to say that you did not do anything to affect the result in that district?

Mr. EMERY. At that time?

Senator REED. Yes.

Mr. EMERY. I could not say off hand, Senator. I might have written letters into the district, or I might have sent literature there.

Senator REED. That is evidently what this means, instead of your literally going in and going around to see voters. I do not see that there would be much good in that.

Mr. McCARTER. The language is:

And he started to working among them for the couple of days that I will be West.

Senator REED. Yes.

Mr. McCARTER. I do not know what it means.

Senator REED. Very well.

Senator WALSH. You said you did not at that time. Did you at any other time? May I inquire whether at any other time you did the things charged?

Mr. EMERY. No sir, I did not.

Senator WALSH. Then why did you qualify your answer by saying "at that time"?

Mr. EMERY. I think I was referring to the conversation. I can not say whether the conversation took place, but I did not do the things described there, nor did I do them at any other time.

Senator WALSH. The qualification came from yourself, Mr. Emery.

Mr. EMERY. That is possible, Senator. I had no mental reservation about it.

Senator REED. Let me ask, were you at this time, October 28, 1908, located in Washington or in New York?

Mr. EMERY. In New York.

Senator REED. You were just across the river from New Jersey.

Mr. EMERY. I was just going to Washington.

Senator REED. Many of the manufacturers in New Jersey had offices in New York City.

Mr. EMERY. Why, I suppose so.

Senator REED. A number of them were members of the organization of which you were then the secretary, namely, the—what was the name of that association?

Mr. EMERY. The Citizens' Industrial Association of America.

Senator REED. Are you prepared to say that in that campaign you did not intercede, by letter or in person, or both, with various manufacturers who were living in New Jersey, with regard to the Hughes campaign?

Mr. EMERY. I do not think I engaged in any activity, Senator, beyond recommending the distribution in Mr. Hughes's district of an

argument which he had made before the subcommittee of the Judiciary Committee with respect to a bill which he proposed, exempting labor organizations from the Sherman Act. There were a number of copies of that argument——

Senator REED. How many?

Mr. EMERY. I say there were a number of copies of that argument printed—I do not know how many; maybe four or five thousand—and I recommended their distribution in his district.

Senator REED. That was an argument in favor of exempting labor organizations from the pains, penalties and inhibitions of the Sherman Act?

Mr. EMERY. From the Sherman Act.

Senator REED. Then, of course, it was a proposition which would be favorably received by organized labor?

Mr. EMERY. Yes, indeed.

Senator REED. Therefore you did not circulate those four or five thousand copies of Mr. Hughes's address among the members of organized labor, because that would have helped Hughes instead of hurting him?

Mr. EMERY. Oh, no. I say I suggested its distribution among the business men in his district.

Senator REED. You circulated it primarily among the manufacturers, did you not?

Mr. EMERY. I did not circulate it. It was turned over to the New York office for circulation.

Senator REED. I know you did not do the manual work.

Mr. EMERY. I suggested the distribution of these copies among manufacturers, for the purpose of——

Senator REED. And your suggestion, in the way you made it, was sufficient to cause the work to be done?

Mr. EMERY. Why, yes; I think it was done.

Senator REED. In addition to the mere sending out to these gentlemen of the naked remarks of Mr. Hughes, did you not send some letter or communication, pointing the moral and adorning the tale, if you please, so that these gentlemen would understand why you sent them Mr. Hughes's remarks?

Mr. EMERY. I do not think I did, Senator.

Senator REED. You know, do you not, that there were circulars gotten out and sent to manufacturers, attacking Hughes because of his speech that he had made, and because of his labor attitude? You know that?

Mr. EMERY. I think there were, Senator. I do not want you to misunderstand me. If I had done it I would not hesitate to say so, because I would not hesitate to write a circular on that subject; but I have no recollection of having done so in that instance.

Senator REED. They were sent out?

Mr. EMERY. I think so.

Senator REED. I do not say whether you wrote it or not, and I do not care whether you wrote it or not, or whether you had one of your hired men write it, or whether one of the other members of the association wrote it; you were fully in accord with that kind of campaign, and you think you did go far enough at least to suggest sending the speech?

Mr. EMERY. Oh, yes, I think so.

Senator REED. So as a matter of fact, now, so far as you were active at all in the Hughes matter, you were active against Mr. Hughes?

Mr. EMERY. Yes.

Senator REED. And it was of sufficient importance in that campaign to beat Mr. Hughes, so that the matter in some way, by somebody, was drawn to your attention——

Mr. EMERY. You mean the argument he made?

Senator REED. The campaign was drawn to your attention, and you took enough interest at least to have Mr. Hughes's speech sent out where it would do the most harm to Hughes?

Mr. EMERY. Yes. I was present——

Senator REED. Then what is really wrong with this statement in the letter which says:

I had a long interview with Mr. Emery on Monday morning——

You say you do not remember whether you had that or not, but you might have had it.

Mr. EMERY. Yes.

Senator REED. I continue:

and fully went over the situation with him and went to Paterson on Monday night and had a second interview with him on Tuesday noon.

Of course from New York over to Paterson was just a matter of a few minutes, I suppose.

Mr. EMERY. Yes.

Mr. McCARTER. About an hour.

Senator REED. It is just a short run. It is accessible. He says:

Mr. Emery has changed his mind about that district.

From that I take it that you had thought there was no use in trying to beat Hughes.

Mr. EMERY. I do not recollect precisely what it was.

Senator REED. He continues:

I gave him a large list of manufacturers in that district——

You did have this speech sent out to some one, and you did have it sent to the manufacturers. Of course it is wholly unimportant whether you got that list yourself, or Mulhall handed it to you; but as a matter of fact you are not prepared to say that Mulhall did not give you a list of manufacturers?

Mr. EMERY. Oh, no; only handing me a list of manufacturers, considering the facilities of our office, evidently was carrying coals to Newcastle.

Senator REED. Except that he might have looked up a list of manufacturers in that special district. You might not have known the limits of the congressional district.

Mr. EMERY. Oh, no, that is quite true.

Senator REED. And he might also have been able to tell you whether some of these men were specially influential, or would be likely to be active. That kind of information might not have been coals to Newcastle, but might have been what Newcastle wanted at that time. You assent to that, I notice, by nodding your head, but you do not say anything so that the stenographer can put it into the record.

Mr. McCARTER. I did not know it was a question.

Mr. EMERY. I did not know it was a question. I thought it was a statement from you.

Senator REED. It was leading; almost as leading as the examination that your counsel has conducted.

Mr. EMERY. He profits by example.

Senator REED. He is examining, not cross-examining. I read further from this letter:

and he started to working among them for the couple of days that I will be West and will do all he can to help me out.

You did send out this speech, although you did not go over into the district, and this does not say you did. What is the matter with that statement, after all, that it should be challenged?

Mr. McCARTER. Is that an argument or a question?

Senator REED. I am asking if it is not practically a statement of facts, as he now admits.

Mr. EMERY. Do you want an answer from me, Senator?

Senator REED. Yes.

Mr. EMERY. All I can say about it is that the only thing I did was to recommend the sending out of this argument which Mr. Hughes had made, and I think the office acted on my recommendation and sent it out. That is the full extent of my activity in the matter.

Senator REED. You are not prepared to say that there was not a letter sent out with that?

Mr. EMERY. Oh, no. Doubtless there was.

Senator REED. That is all.

The CHAIRMAN. You say you had this speech printed. Were the copies printed by the association?

Mr. EMERY. They were printed at the Government Printing Office.

The CHAIRMAN. You had them printed?

Mr. EMERY. Yes.

The CHAIRMAN. By the Government Printing Office?

Mr. EMERY. Yes.

The CHAIRMAN. And sent them out under whose frank?

Mr. EMERY. I do not know whether they were sent out under a frank or not.

The CHAIRMAN. Did the association pay the postage?

Mr. EMERY. I do not know, Senator. I know we paid for the printing.

The CHAIRMAN. Was it not your habit to send out speeches all over this country under somebody's frank?

Mr. EMERY. Frequently, Senator, yes.

Senator REED. Mr. Hughes did not furnish you his frank in this particular instance?

Mr. EMERY. No, I do not think he did.

The CHAIRMAN. Is it not more than probable that they were sent out under somebody's frank?

Mr. EMERY. Very likely. This was an argument made before the Judiciary Committee.

The CHAIRMAN. I understand that. They were probably sent out under somebody's frank. Under whose frank were they sent?

Mr. EMERY. I do not remember. I will give you my recollection, or rather my opinion. The argument was made before a subcommittee, of which Mr. Littlefield was chairman, of the Committee on the Judi-

ciary of the House, and it is quite likely they were sent out under Mr. Littlefield's frank.

The CHAIRMAN. It was your custom to use Mr. Littlefield's frank to send literature about Congressmen into their districts, was it?

Mr. EMERY. No, sir; I only remember one instance in which Mr. Littlefield's frank was used?

The CHAIRMAN. What was that?

Mr. EMERY. To circulate Mr. Littlefield's speech of 1908.

Senator REED. Why did you say it was likely that these addresses of Mr. Hughes were sent out under Mr. Littlefield's frank?

Mr. EMERY. Because of the fact that the argument was made before the Judiciary Committee, and this was a report of that argument. We would ask for an order from the chairman of the subcommittee or of the full committee—for permission—to print the speech and distribute it.

Senator REED. For permission to print it?

Mr. EMERY. Yes. There is no other way that I know of by which you can have the Government Printing Office print any speech before Congress or before any committee, except to get an order from one of the Senators or Members of the House, and pay for the printing.

Senator REED. You would get an order and have it printed in the Government Printing Office? Of course if the speech was taken down and transcribed, you could have had it printed at a private printing office without anybody's permission?

Mr. EMERY. Yes.

Senator REED. And you could then have sent it out and paid the postage upon it, and sent it wherever you pleased?

Mr. EMERY. Certainly.

Senator REED. So that when you got an order from a Congressman to have it printed in the Government Printing Office, you did it so that it could be sent out under a frank?

Mr. EMERY. Yes.

Senator REED. And in this instance you think it was probably Mr. Littlefield's frank?

Mr. EMERY. Yes, I should assume that, just from the circumstances of the discussion. I may not be stating it accurately, but that is my assumption, because it was the practice——

Senator REED. You did not have to get permission from the chairman of the committee in order to get a public proceeding of that kind printed at the Government Printing Office. Any Congressman could have it done.

Mr. EMERY. Any Congressman; yes.

Senator REED. But your mind naturally drifts to Mr. Littlefield?

Mr. EMERY. No, my mind does not naturally drift to Mr. Littlefield.

Senator REED. It just did drift?

Mr. EMERY. I offered that as a reasonable explanation. I wanted to be as frank with you as possible.

Senator REED. Why; certainly.

Mr. EMERY. I gave you the name of the man who would be most likely to give it.

Senator REED. I think your mind was proceeding along a very logical road at that time.

The CHAIRMAN. These documents were sent out into that district for the purpose of defeating Mr. Hughes?

Mr. EMERY. Why, that was our purpose, certainly.

The CHAIRMAN. And then you used the Government Printing Office, and the frank of a Member of Congress to send literature into a district, to beat a Member of Congress?

Mr. EMERY. That might have been my purpose. The purpose was to distribute information with respect to Mr. Hughes's opinions, which Mr. Hughes had publicly expressed.

The CHAIRMAN. But I understand your ultimate purpose was to defeat him?

Mr. EMERY. That was my purpose. I suppose Mr. Hughes was very proud of his speech.

The CHAIRMAN. Your purpose was to defeat him?

Mr. EMERY. Yes; just as the American Federation of Labor uses the franks of Members of Congress, and sends literature, for the same reason.

Senator REED. We will not try the American Federation of Labor now. If it is doing wrong with franks, we will get at that.

Mr. EMERY. I call your attention to the practice, because it is a common practice.

Senator REED. It seems that the defense, as it has been termed, offers the excuse that somebody else has done it too.

Mr. EMERY. I do not offer it as an excuse, Senator.

The CHAIRMAN. Suppose we get back to the examination.

Mr. EMERY. I want you to understand exactly what I did, because if I did wrong I am perfectly willing to be criticized for it. I have always assumed that whenever there was a public debate in the House or Senate, or an argument before a committee, the argument or the debate became a public document when it was printed.

The CHAIRMAN. You did not know it was against the law for any corporation or association to use the frank of any Congressman to send out documents? You did not know that was against the law, did you?

Mr. EMERY. Any corporation?

The CHAIRMAN. Any corporation or association, or anybody else, without the Congressman——

Mr. EMERY. Why?

The CHAIRMAN. To use his frank, to send out documents.

Mr. EMERY. No, sir; I had never supposed that.

The CHAIRMAN. Your attention has been called to it, has it not?

Mr. EMERY. It was called to it in the House the other day. I had a distinguished precedent——

The CHAIRMAN. "Sugar at a Glance"?

Mr. EMERY (continuing). In the judicial conduct of the present governor of New York. That was a very notorious matter. It was tried in the courts of the District of Columbia here, and Gov. Sulzer——

The CHAIRMAN. That is not the question I asked you. Your attention has been called to the fact that it was against the law.

Mr. EMERY. Yes; Mr. Stafford in the House committee the other day raised that question with me, and I gave him that illustrious example.

The CHAIRMAN. Proceed, Mr. McCarter.

Mr. EMERY. I thought that was what guided him.

Mr. McCARTER. I want to say that Senator Reed has referred four or five times to our using the word "defense." I adopted that expression from the chairman of the committee, who said "the defense will now have a chance to put in their testimony." It was an expression used as a colloquialism. I did not suppose—

Senator REED. I used it in the way I did only because I did not want to put myself in the attitude of saying that anybody was on his defense. Therefore I said that it had been referred to in that way.

The CHAIRMAN. And you used the words "the defense, as it has been termed," when you used it.

Mr. McCARTER. Now, Mr. Emery—

Mr. EMERY. Pardon me if I make an inquiry, merely for my own information. You asked me a question, Mr. Chairman, and I do not know whether you intended to imply that I was violating a law or urging a violation of law.

The CHAIRMAN. Have you since learned—

Mr. EMERY. Did you mean the sending of literature into a district for the purpose of defeating somebody, or the using of a frank?

The CHAIRMAN. The using of a frank.

Mr. EMERY. Oh.

Mr. McCARTER. I direct your attention to a letter quoted on page 2949 of the record, which seems to be 2213, 2214, written by Mulhall to Schwedtman. This letter is dated December 10, 1908. In this letter I find the following:

We have secured in the person of George R. Malby, a Representative from New York, a man who will fill the bill entirely in Judge Jenkins's place when he finishes his term as chairman of the Judiciary Committee. We are working to make Mr. Malby chairman of that committee, and this has been entirely satisfactory to Mr. Emery, and I think it is a splendid move.

On the next page, page 2950 of the printed record, is the following:

Senator REED. What committee was that?

Mr. MULHALL. The Committee on the Judiciary.

Senator REED. Why were you trying to make up that committee?

Mr. MULHALL. They were trying to get Mr. Malby on that committee. I guess that is what it means.

Senator REED. Why did you want him on that committee?

Mr. MULHALL. To take the place of Judge Jenkins.

Senator REED. Why were you particularly selecting this man?

Mr. MULHALL. Because Mr. Emery positively stated that he had interviewed Mr. Malby on several occasions, and that he thought he would take Judge Jenkins's place, and along the same lines, and if appointed on the committee, he would be beneficial to the manufacturers while in that position.

Do you remember the fact of the candidacy of Mr. Malby for the position formerly occupied by Judge Jenkins?

Mr. EMERY. As chairman of the Judiciary Committee?

Mr. McCARTER. Yes.

Mr. EMERY. No, I do not recollect. He may have been a candidate, but—

Mr. McCARTER. Did you state, positively or otherwise—

Senator NELSON. Do you know anything about it?

Mr. EMERY. No, sir; I did not know he was a candidate for the chairmanship. He may have been, but I do not remember it, Senator.



Mr. McCARTER. Did you state, positively or otherwise—

Senator REED. You say you do not know whether he was a candidate for the chairmanship? Had he been a member of the committee prior to this?

Mr. EMERY. What is the date of that letter?

Mr. McCARTER. December 10, 1908.

Mr. EMERY. My best recollection is that he was a member of the committee at that time. I know that he was a member of the committee in the spring of 1908, when we argued the Pearre bill before that committee, and he was also a member of the subcommittee before which we argued the Hepburn-Warner bill that Senator Nelson reported on in the Senate. That also was in the spring of 1908, I think.

Senator REED. Very well.

Mr. McCARTER. Did you state that you had interviewed Mr. Malby on several occasions, and that you thought he would take Judge Jenkins's place, and along the same lines, and if appointed on the committee he would be beneficial to the manufacturers while in that position?

Mr. EMERY. I know that I talked to Mr. Malby quite a number of times. He was a member of the committee before which I argued a number of bills, but I have no recollection of ever having talked with Mr. Malby—I know I did not talk with him—on the subject of his being chairman of the Committee on the Judiciary.

Senator NELSON. Did you make any efforts along that line in any way, shape, or manner, to have him made chairman of the committee?

Mr. EMERY. No sir.

Mr. McCARTER. Did you have any talk with Mr. Mulhall in which he said he thought Malby would be a fine successor to Jenkins, and all that kind of thing, such as is stated in that testimony?

Mr. EMERY. That I could not say, sir. I might have made some remark about Mr. Malby. I could not say.

Senator REED. Before you pass this; Mr. McCarter, this testimony reads this way:

Mr. MULHALL. Because Mr. Emery positively stated that he had interviewed Mr. Malby on several occasions, and that he thought he would take Judge Jenkins's place, and along the same lines, and if appointed on the committee he would be beneficial to the manufacturers while in that position.

That nowhere states that Mr. Emery talked with Mr. Malby about making him chairman. Neither does it state that he talked with Mr. Malby about his taking Judge Jenkins's place. Neither does it state that he talked with Mr. Malby and that Mr. Malby agreed or stated that he would act along the same lines. It only says that Mr. Mulhall had talked with Mr. Emery, and Mr. Emery said he had interviewed Mr. Malby on several occasions. It does not say about what.

Senator WALSH. That is right, is it not, Mr. Emery?

Mr. EMERY. Very likely.

Senator WALSH. That you had interviewed Mr. Malby on several occasions.

Mr. EMERY. I say that is very likely, because I appeared a number of times before the committee, and I may have talked to Mr. Malby during the time of the sessions.

Senator WALSH. That reads, "that he thought he would take Judge Jenkins's place." Did you have that idea, that Mr. Malby might be chosen?

Mr. EMERY. No, I did not think that, because he was the last man on the committee, as I recollect. He was a new Congressman, and there must have been 10 men between him and the chairmanship of the committee—10 or 12.

The CHAIRMAN. Did you not prefer him to Mr. Parker of New Jersey?

Mr. EMERY. Why, no; I did not have any opinion on that subject.

Mr. McCARTER. That was away back in 1908.

Senator WALSH. However, you did have a rather high opinion of Mr. Malby?

Mr. EMERY. Oh, yes.

Senator WALSH. And you did feel that it would be a very nice thing for the Manufacturers' Association if a man entertaining his views should take the place of the chairman of the committee?

Mr. EMERY. In the abstract, Senator, that might be true; but I never had thought of Mr. Malby—I do not remember ever having thought of him as chairman of the committee.

Senator WALSH. Without any reference whatever to whether you actually did have any such talks with Mr. Mulhall or not, there is no sentiment there attributed to you that you did not actually entertain, is there?

Mr. EMERY. There is a sentiment expressed there as to my opinion of Mr. Malby, or my views that he would be or ought to be or could be chairman of the committee. I do not recollect ever thinking of Mr. Malby in connection with the chairmanship of the committee.

Senator WALSH. Outside of that there is nothing that you care to deny, is there?

Mr. EMERY. Except that I had anything to do with Mr. Malby's—

Senator WALSH. It is not suggested at all.

Mr. EMERY. I understood as it was read that it did so suggest.

Senator WALSH. No; there is not a suggestion here that you had exercised yourself in any direction.

Mr. EMERY. If you will pardon me, there is a line there which I could not gather when Senator Reed read it; there is a mixture there as to whether Mr. Malby was aspiring to be a member of the committee or chairman of the committee.

Senator WALSH. Not at all.

Mr. EMERY. It speaks there of "member of the committee," as though that were the thought.

Senator WALSH. The testimony is simply as follows:

Senator WALSH. I think that letter should be read. I will read this part of it.

The letter was then read. I read further:

Senator REED. What committee is that?

Mr. MULHALL. The Committee on the Judiciary.

Senator REED. Why were you trying to make up that committee?

Mr. MULHALL. They were trying to get Mr. Malby on that committee. I guess that is what it means.

Mr. EMERY. Get him on the committee. That is what I referred to.

Senator WALSH. "They" were trying.

Mr. McCARTER. That is, the association.

Senator WALSH. Yes. I read further:

Senator REED. Why did you want him on that committee?

Mr. MULHALL. To take the place of Judge Jenkins.

Senator REED. Why were you particularly selecting this man?

We were inquiring about Mr. Mulhall's activity. He was going to get this man made chairman, and he gives his reasons. When asked "Why were you particularly selecting this man?" he says:

Mr. MULHALL. Because Mr. Emery positively stated that he had interviewed Mr. Malby on several occasions, and that he thought he would take Judge Jenkins's place, and along the same lines, and if appointed on the committee, he would be beneficial to the manufacturers while in that position.

You think you did not say that, because you did not think of him in that connection?

Mr. EMERY. When he says "he thought," does he mean that I thought or that Mr. Malby thought?

Senator WALSH. No, he says "he thought." That means you.

Mr. EMERY. Yes, sir.

Senator WALSH. Whether you said that or not, you did think that, that Mr. Malby would be a good man for the manufacturers?

Mr. EMERY. Yes.

Senator WALSH. So, what is there that you feel you ought to repudiate?

Mr. EMERY. The first statement, that we were endeavoring to get him on the committee.

Senator WALSH. But he does not attribute that to you. Mr. Mulhall's conclusion is that the National Association of Manufacturers wanted to get Mr. Malby on there. He does not attribute anything to you in that connection.

Mr. McCARTER. Why not read the letter in that connection? The letter reads:

We are working to make Mr. Malby chairman of that committee, and this has been entirely satisfactory to Mr. Emery, and I think it is a splendid move.

Senator WALSH. "We are"; that is, Mr. Mulhall and some one else; and it is satisfactory to Mr. Emery. I suppose Mr. Emery would not like to have us understand that it would not have been satisfactory to him.

Mr. EMERY. Oh, no. But it imputes to me a knowledge that I did not possess of an effort to make some one a member of a committee.

Senator WALSH. But if they had been doing it, it would have met your entire approval? You would have been glad to have them do anything they could to get that place for Mr. Malby?

Mr. EMERY. I would not have had any objection to any legitimate endeavor; but so far as any effort to make Mr. Malby a member of the committee was concerned, it is obvious I could not have entertained it, because Mr. Malby was a member of the committee.

Senator REED. How about a subcommittee?

Mr. EMERY. What about it?

Senator REED. How about Mr. Malby being made chairman of a subcommittee to which these bills that you were specially interested in might go?

Mr. EMERY. What of it?

Senator REED. I say, how about an effort being made to make Mr. Malby chairman of such a subcommittee?

Senator WALSH. That could not be so, because this letter reads:

We have secured in the person of Mr. George R. Malby, a Representative from New York, a man who will fill the bill entirely in Judge Jenkins's place when he finishes his term as chairman of the Judiciary Committee. We are working to make Mr. Malby chairman of that committee, and this has been entirely satisfactory to Mr. Emery, and I think it is a splendid move.

Senator REED. I want to return for a moment to the Judge Jenkins matter.

Mr. EMERY. Will you pardon me a moment? If I have not made myself clear to the Senator, I desire, in justice to myself, to say that so far as I was concerned I knew of no move to make Mr. Malby chairman of the committee, and if such a move was in existence in the mind of Mr. Mulhall I had no knowledge of it. I do not know of any other effort having been made by the Manufacturers' Association or by Mr. Malby.

The CHAIRMAN. Judge Jenkins at that time had been defeated, had he?

Mr. EMERY. I do not know the date.

Senator WALSH. But you would have entirely approved of it if you had known of it?

Mr. EMERY. Why, if Mr. Malby had been chairman of the committee, I certainly would not have objected to it. But I want it distinctly understood that we made no such effort to make him chairman.

Senator WALSH. You say you made no effort; but you do not mean to say the Manufacturers' Association made no effort?

Mr. EMERY. So far as I know, the Manufacturers' Association made no effort.

Senator WALSH. While you did not know it, Mr. Mulhall evidently knew it when he wrote this letter.

Mr. McCARTER. Is not that a psychological question?

Senator WALSH. No, it is not a psychological question. The importance of the matter consisted, not in whether Mr. Emery knew it, but in whether the association knew it.

Mr. McCARTER. We are examining Mr. Emery now.

The CHAIRMAN. I think it is a little out of order, because it is cross-examination.

Senator REED. I will make it in order.

You and Mr. Schwedtman were on good terms?

Mr. EMERY. Certainly.

Senator REED. You had daily communications with him?

Mr. EMERY. Oh, no—

Senator REED. Well, you had frequent communications, and there are in the files hundreds of letters between you and Mr. Schwedtman?

Mr. EMERY. Yes, sir.

Senator REED. You say that you did not know of this. Do you mean to say that Mr. Mulhall was trying to conceal it from you, or that you simply do not recollect it?

Mr. EMERY. No; there is no question of recollection. I would distinctly know—that is, I would know certainly—if I participated in such a movement; and I ought to know if the association was participating in such a movement.

Senator REED. But Mr. Mulhall did write the association about it?

Mr. EMERY. It is very evident.

Senator REED. He wrote to its secretary in regard to Judge Jenkins. Did I correctly understand you to say that you made no effort to raise money for Judge Jenkins?

Mr. EMERY. I, personally?

Senator REED. Yes.

Mr. EMERY. No, sir.

Senator REED. That you did not further or father any effort to raise money for him?

Mr. EMERY. I would not say that. I know that doubtless in the course of conversation with—I can not recall names now, but I know I entertained a strong opinion on the subject, that it was a shame that the business men would not support a man like Judge Jenkins—

Senator WALSH. You told us the extent of that conversation you had with Judge Jenkins, in which you stated to him that the manufacturers of the country were indebted to him for his position, and that they ought to do something to help him in his district, and that you believed they would. You told us that. I think I have quoted you with substantial accuracy. Is that correct?

Mr. EMERY. Except for the latter part of your statement, in which you attribute to me the offer of financial support. As I said, in the conversation I had with Judge Jenkins I expressed to Judge Jenkins a very strong opinion as to how I felt, but there was nothing in his attitude or his manner or his speech that indicated any expectation of financial help.

Senator WALSH. I understand that. You told us that was the extent of your connection with funds in the matter of rendering assistance to Judge Jenkins.

Senator REED. You told us that you repudiated that statement to Mr. Mulhall. I asked you if you ever wrote him and repudiated that statement, and you said you did not; but you said that you met him in New York and had a talk with him, and in that talk you repudiated it.

Mr. EMERY. I repudiated the speech described in that letter.

Senator REED. And you also gave us to understand, did you not, that you did not raise or try to raise any money for Judge Jenkins?

Mr. EMERY. No; personally, I did not.

Senator REED. I do not know what you mean by "personally," but I ask you if that is your signature to that letter. [Handing witness letter.]

Mr. EMERY (after examination). Yes, sir.

Senator REED. I ask that this be marked as an exhibit.

The letter referred to was marked Emery Exhibit No. 40.

Senator REED. This is on the Citizens' Industrial Association letter-head, dated New York, July 7th, 1908, and addressed to Col. M. M. Mulhall, Superior Hotel, Superior, Wis. That was in Judge Jenkins's district, was it not?

Mr. EMERY. Yes, sir.

Senator REED. This letter reads:

MY DEAR COLONEL: You no doubt have me on your black list for apparent neglect of your very interesting and exhaustive letters. I found it necessary to attend a southern convention at Atlanta, Ga., and left here on family matters immediately on my return. I realize very keenly the critical nature of the Wisconsin situation and I hope we have some lines out that will secure practical assistance within a few

days. The extreme heat of the past week has apparently driven out of New York every man whom we have been most anxious to see, which has prevented the work I have been most anxious to do here in connection with the Jenkins decision.

That word evidently should be "election."

I am attending after to-morrow a convention of the State Bankers' Association at which I expect to find some of the men I am most anxious to see.

I hope you will have an early interview with Senator Stevenson, who seems to be the key of the Wisconsin situation financially. He has spent so much to put himself where he is that it would be strange if he would not contribute a bit more to sustain his present position and prevent the absolute dominance of La Follette of Wisconsin, which would mean his elimination from public life and the bitter loss of the fruits of his own generosity and trust in another. I trust I may have something concrete to say by the first of next week.

With best of good wishes, believe me,

Very truly yours,

JAMES A. EMERY,  
*Secretary.*

J. A. E./M. W.

P. S.—I enclose a copy of a letter written by Mr. Miles to prominent ministers in Wisconsin with whom he has influence and who, in their turn, are in a position to be helpful.

The first thing I want to direct your attention to, Mr. Emery, and refresh your recollection as to, is this. The letter of Mr. Mulhall, with reference to which you testified, being letter 1647-1649, and which is referred to in the record at page 2791, is dated June 23, 1908. The letter I have just read you is dated July 7, 1908, and apologizes for not having answered Mr. Mulhall's letters. Now, is not this letter of July 7 an answer to that very letter which you hold in your hand?

MR. EMERY. It may be, Senator.

Senator REED. And is not this also true, that you are mistaken when you say that you had an interview with Mr. Mulhall a few days afterwards? Can you not tell from this letter of July 7, addressed to him at Superior, Wis., that he was still out in the district of Mr. Jenkins?

MR. EMERY. It is very likely, Senator.

Senator REED. So that it is very evident you were mistaken when you said you did not answer the letter of June 23, and you were evidently mistaken about having had a conversation with Mr. Mulhall in which you repudiated his letter of June 23, or repudiated this statement in it that you have criticized?

MR. EMERY. It is quite possible, Senator, that the interview was later; looking back over the matter, five years ago. Of course I have not seen any of my letters, or had any chance to refresh my recollection.

Senator REED. I understand. I am not criticizing you; I am trying to get the facts.

MR. EMERY. Yes, sir; and I am trying the best I can to give them to you.

Senator REED. It appears from this letter of July 7, written some 10 days, or some 14 days, perhaps, after the letter of June 23, that you not only did not repudiate his statement which you criticized this morning, but that you were fully in accord with his letter, and did start to raise money—tried to raise money.

MR. EMERY. It is very evident from that letter that some effort was made, but I had no—

Senator REED. It is also evident that you made a personal effort. is it not?

MR. EMERY. You mean that I personally tried to raise money?

Senator REED. Yes.

Mr. EMERY. I can only give you, in connection with the letter, my very best recollection, which is that I made no special effort. I may have talked to somebody about it in a general way, but I can not recall anybody.

Senator REED. I do not know what you mean by "special effort." Just let me read the letter again, to refresh your recollection. I realize that a busy man, with thousands of things on his hands, has to go somewhat by memoranda and records. I have had to do it. I am calling your attention to the language of this letter:

I realize very keenly the critical nature of the Wisconsin situation—

That referred to Mr. Mulhall's letter where he told you that it was going to be a hard fight?

Mr. EMERY. Yes, sir.

Senator REED. And this letter goes on:

and I hope we have some lines out that will secure practical assistance within few days.

Now, whom did you mean by that?

Mr. EMERY. I suppose I referred to a number of my associates or officers. As I told you, Senator—

Senator REED. You must have had a talk with them about it, then—

Mr. EMERY. Yes. As I told you—

Senator REED (continuing). And arranged to get the lines out. That much had been done, and you had been personally concerned in it to the extent of talking it over with other members, or with some of the other officers of the association. That is correct, is it not?

Mr. EMERY. Yes sir.

Senator REED. Now, I continue with this letter. The practical assistance, of course, that you expected to get, was money. That is what your were writing about?

Mr. EMERY. Yes sir.

Senator REED. The letter continues:

The extreme heat of the past week has apparently driven out of New York every man whom we have been most anxious to see—

Those were the capitalists, the manufacturers, the men who had money, that you referred to, were they not? I will read it again:

The extreme heat of the past week has apparently driven out of New York every man whom we have been most anxious to see, which has prevented the work I have been most anxious to do here in connection with the Jenkins decision.

The word "decision" should evidently be "election." The stenographer probably made a mistake. That referred to people you had expected to see, did it not?

Mr. EMERY. Very evidently, yes sir.

Senator REED. Now, going a little further:

I am attending after to-morrow a convention of the State Bankers' Association—

That was the State Bankers' Association of New York, was it not?

Mr. EMERY. Yes sir.

Senator REED. I will read on:

at which I expect to find some of the men I am most anxious to see.

You did attend that bankers' association meeting, did you?

Mr. EMERY. Yes.